

AMENDED IN SENATE MARCH 29, 2012

AMENDED IN SENATE MARCH 12, 2012

SENATE BILL

No. 1002

Introduced by Senator Yee

February 6, 2012

An act to amend Section 6253.9 of, and to add Chapter 3.6 (commencing with Section 6278) to Division 7 of Title 1 of, the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1002, as amended, Yee. Public records: electronic format.

(1) The California Public Records Act requires state and local agencies to make their records available for public inspection and, upon request of a person, to provide a copy of a public record unless the record is exempt from disclosure. The act requires an agency that has information that constitutes an identifiable public record not otherwise exempt from disclosure that is in an electronic format to make that information available in an electronic format when requested by a person. The act requires the agency to make the information available in an electronic format in which it holds the information.

This bill would authorize an agency, when requested by a person, to provide an electronic record in a format in which the text in the electronic record is searchable by commonly used software. The bill would require the requester to bear the cost of converting the electronic record into a searchable format. ~~This~~ *The* bill would prohibit an agency from charging a requester for the cost to construct a record or the cost of programming and computer services necessary to produce a copy of the record, as specified.

This bill would also make technical, nonsubstantive changes to these provisions.

(2) Existing law requires certain state and local agencies to make specified data or documents available to the public by various methods, including on the Internet.

This bill would require that in certain circumstances the data or document be made available in an open format, as defined. ~~This~~ *The* requirement would not apply if the state or local agency does not have the data or document available for internal use in an open format. ~~This~~ *The* bill would require a state or local agency, whenever it updates its software or hardware used in the preparation or dissemination of documents or data, to do so with software or hardware that allows it to satisfy specified requirements.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6253.9 of the Government Code is
2 amended to read:
3 6253.9. (a) Unless otherwise prohibited by law, an agency
4 that has information that constitutes an identifiable public record
5 not exempt from disclosure pursuant to this chapter that is in an
6 electronic format shall make that information available in an
7 electronic format when requested by a person and, when applicable,
8 shall comply with the following:
9 (1) The agency shall make the information available in an
10 electronic format in which it holds the information.
11 (2) Each agency shall provide a copy of an electronic record in
12 the format requested if the requested format is one that has been
13 used by the agency to create copies for its own use or for provision
14 to other agencies. The cost of duplication shall be limited to the
15 direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

(c) Notwithstanding subdivision (b), an agency shall not charge a requester for the cost ~~to construct a record or the cost of programming and computer services necessary to produce a copy of the record~~ for any of the following:

(1) For data extraction, when the agency is exercising ~~a discretionary~~ *an* exemption.

(2) For data conversion, if the electronic record will be used by the agency for its own use.

(3) For programming and computer services, when the programming or computer service ~~is~~ *will result in an electronic record* used by the agency for its own ~~business operations~~ use.

(d) This section shall not be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(e) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

(f) At the request of a person, an agency may provide an electronic record in a format in which the text in the electronic record is searchable by commonly used software if the agency does not already have the electronic record in a searchable format. The requester shall bear the cost, if any, of converting the electronic record into a searchable format, including the cost of programming and computer services necessary to produce the electronic record.

(g) This section shall not be construed to permit an agency to make information available only in an electronic format.

(h) This section shall not be construed to require the public agency to release an electronic record in the electronic form in

1 which it is held by the agency if its release would jeopardize or
2 compromise the security or integrity of the original record or of
3 any proprietary software in which it is maintained.

4 (i) This section shall not be construed to permit public access
5 to records held by an agency to which access is otherwise restricted
6 by statute.

7 SEC. 2. Chapter 3.6 (commencing with Section 6278) is added
8 to Division 7 of Title 1 of the Government Code, to read:

9
10 CHAPTER 3.6. CALIFORNIA OPEN DATA STANDARD

11
12 6278. (a) Whenever a state or local agency is required by law
13 to make *electronic* data or ~~a~~ *an electronic* document available to
14 the public, the data or document shall be provided in an open
15 format.

16 (b) Whenever a state or local agency is required by law to make
17 data or a document available on the Internet, the data or document
18 shall be posted in an open format.

19 (c) For purposes of this chapter, “open format” means *all of the*
20 *following*:

21 (1) The data or document can be located and downloaded by
22 open-source software or public Internet applications that are
23 available for free, or both.

24 (2) The data or the text in the document is machine readable
25 and can be searched, indexed, organized, categorized, and is
26 otherwise automatically processable.

27 (3) The data or document is available without restrictions that
28 would impede the use of the information.

29 (4) The data or document maintains the integrity of databases
30 and all associated relationships or mappings between data or
31 content.

32 (5) The data or document provides data granularity, definitions,
33 and structured formats in the original quality available to the state
34 or local agency.

35 (d) For purposes of this chapter, “open-source software” means
36 computer software that is provided under a free software license
37 that permits users to study, change, improve, and distribute the
38 software.

39 (e) This section shall not be construed to require a state or local
40 agency to convert data or a document into an open format.

1 6278.1. (a) Whenever a state or local agency updates its
2 software or hardware used in the preparation or dissemination of
3 documents or data, the agency shall do so with software or
4 hardware that allows it to satisfy the requirements of this chapter.

5 (b) This section shall not be construed as a mandate on a state
6 or local agency to update its software or hardware.

7 SEC. 3. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.